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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/581,180	07/14/2000	HIROTOSHI ISHIDA	192697US0PCT	1244

7590 09/18/2002  
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ARLINGTON, VA 22202

EXAMINER

WONG, LESLIE A

ART UNIT	PAPER NUMBER
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1761

DATE MAILED: 09/18/2002

18

Please find below and/or attached an Office communication concerning this application or proceeding.

Te-18

**Advisory Action**

Application No.  
**09/581,180**

Applicant(s)  
**Ishida et al**

Examiner  
**Leslie Wong**

Art Unit  
**1761**



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED Mar 19, 2002 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid the abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

THE PERIOD FOR REPLY [check only a) or b)]

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☒ A Notice of Appeal was filed on Mar 19, 2002. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see NOTE below);
- (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_

3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_

4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

5. ☒ The a) ☒ affidavit, b) ☐ exhibit, or c) ☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
the claimed invention does not define over the prior art of record for the reasons previously set forth in Paper Nos. 9 and 12. See attachment.

6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.

7. ☐ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: \_\_\_\_\_

Claim(s) objected to: \_\_\_\_\_

Claim(s) rejected: \_\_\_\_\_

Claim(s) withdrawn from consideration: \_\_\_\_\_

8. ☐ The proposed drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.

9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_

10. ☐ Other: \_\_\_\_\_

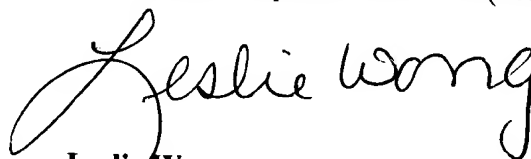
*Leslie Wong*  
**LESLIE WONG**  
**PRIMARY EXAMINER**  
**ART UNIT 1761**

Art Unit: 1761

The declaration under 37 CFR 1.132 filed March 19, 2002 is insufficient to overcome the rejection of claims 1-3, 5, 7, and 9-19 based upon Muhammad et al as set forth in the previous Office actions for the following reasons.

- 1) Applicant does not provide statistical analysis of the data to support the conclusions.
- 2) The results supplied do not seem to support unexpected results for the broad range that is claimed. Applicant claims "about 1,400  $\mu\text{m}$  or less", but it is not seen where the data supports unexpected results for this range. For example, at 5% ACE-K at 500 to 1,400  $\mu\text{m}$  and at to 100  $\mu\text{m}$  the data appears similar.
- 3) It is not clear why the data for 90% ACE-K is combined and why only some of the granules are "non-sieved".

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Leslie Wong whose telephone number is (703) 308-1979. The examiner can normally be reached on Tuesday-Friday. The fax number for this Group is (703) 872-9310 for non-final responses and (703) 872-9311. Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0661.



**Leslie Wong**  
**Primary Examiner**  
**Art Unit 1761**

LAW  
September 17, 2002